

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON, DC 20579

In the Matter of the Claim of

XHANI FEMERA
MAKBULE Q. FEMERA
FLORENCE F. LESKO
SHKEMBOR FEMERA
KEJDIJ F. LICI
HATIXHE F. COMO
VJOLLCA F. KURTI
SHAHIN FEMERA

Against the Government of Albania

Claim No. ALB-042

Decision No. ALB-290

Hearing on the record held on December 15, 1998.

FINAL DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real and personal property located in Delvine and Gjirokaster.

By Proposed Decision entered on February 24, 1997, the Commission made awards to all of the claimants except MAKBULE Q. FEMERA.¹ The awards were in the principal amount of \$1,666.67, plus interest covering the period from October 1, 1945, to April 18, 1995, in the amount of \$4,946.67,

¹Her claim was denied because there was no evidence that she ever acquired United States nationality.

based on the loss of their one-eighth interests in the claim of their father and aunt resulting from confiscation of property by the Albanian government in 1945.²

By letter dated March 12, 1997, claimants objected to the Proposed Decision, asserting that the Commission had made a mistake in its calculation of their awards. Specifically, they contended that, in the Proposed Decision, the Commission had determined that 11 acres of land in Gjirokaster and 165 acres in Delvine were the equivalent of one-third of the property owned by their grandfather. It was their contention that since the Commission had found them entitled to compensation based on two-thirds of the property, their awards should be different. In response, by letter dated March 26, 1997, from the Commission's Chief Counsel, claimants were advised that they had, in fact, misread the documentation they had submitted and the Commission's Proposed Decision. They were also advised that unless they could establish that their grandfather had in fact owned more than 165 acres in Delvine and 11 acres in Gjirokaster, there would be no basis for a change in the Proposed Decision.

²In calculating the amount of the award, the Commission determined that Shahin Kamberi (Femera) owned 165 acres of property located in Delvine and 11 acres of land located in Gjirokaster. The Commission valued that property at \$20,000.00 as of 1945, the time of confiscation. A two-thirds share of that property, representing the interests of claimants' father and aunt, thus had a value of \$13,333.00. Each claimant was found entitled to a one-eighth interest in their father's and aunt's claim, which had a value of \$1,666.67.

Because claimants have not requested an oral hearing, the Commission issues this Final Decision in a hearing on the record, based on its de novo review of the evidence submitted in support of the claim, including documents submitted in August and October 1997. The Commission notes, however, that the recent documents that claimants have submitted consist only of more legible copies of previously-submitted documents of ownership, together with a "Notarial Report" (sworn statement) prepared in Albania by one of the claimants, FLORENCE LESKO, declaring that her grandfather had owned approximately 175 hectares of land in Delvine and 14.1 hectares in Gjirokaster. No other evidence has been submitted in support of their objection.

Section 531.6(d) of the Commission's regulations provides:

The claimant shall be the moving party, and shall have the burden of proof on all issues involved in the determination of his or her claim.

45 C.F.R. 531.6(d) (1998).

The Commission has again reviewed the documents of ownership and deeds of mortgage very carefully and is satisfied that its calculations as stated in the Proposed Decision were correct. Furthermore, claimant FLORENCE LESKO's recent affidavit as to her grandfather's ownership of significantly larger amounts of property is unsupported by any independent objective evidence

and thus is insufficient in and of itself to warrant a change in the result reached in the Proposed Decision.

For the reasons set forth above, the Proposed Decision of February 24, 1997 -- including the awards for each eligible claimant's one-eighth interest in the claim for their father's and aunt's real property -- must accordingly be and is hereby affirmed. These awards are restated below, and will be certified to the Secretary of the Treasury for payment in accordance with sections 5, 7, and 8 of Title I of the ICSA (22 U.S.C. §§1624, 1626, and 1627). This constitutes the Commission's final determination in this claim.

A W A R D S

Claimant XHANI FEMERA is entitled to an award in the principal amount of One Thousand Six Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$1,666.67), plus interest from October 1, 1945, to April 18, 1995, in the amount of Four Thousand Nine Hundred Forty-Six Dollars and Sixty-Seven Cents (\$4,946.67), for a total award of Six Thousand Six Hundred Thirteen Dollars and Thirty-Four Cents (\$6,613.34).

Claimant FLORENCE F. LESKO is entitled to an award in the principal amount of One Thousand Six Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$1,666.67), plus interest from October 1, 1945, to April 18, 1995, in the

amount of Four Thousand Nine Hundred Forty-Six Dollars and Sixty-Seven Cents (\$4,946.67), for a total award of Six Thousand Six Hundred Thirteen Dollars and Thirty-Four Cents (\$6,613.34).

Claimant SHKEMBOR FEMERA is entitled to an award in the principal amount of One Thousand Six Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$1,666.67), plus interest from October 1, 1945, to April 18, 1995, in the amount of Four Thousand Nine Hundred Forty-Six Dollars and Sixty-Seven Cents (\$4,946.67), for a total award of Six Thousand Six Hundred Thirteen Dollars and Thirty-Four Cents (\$6,613.34).

Claimant KEJDIJ F. LICI is entitled to an award in the principal amount of One Thousand Six Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$1,666.67), plus interest from October 1, 1945, to April 18, 1995, in the amount of Four Thousand Nine Hundred Forty-Six Dollars and Sixty-Seven Cents (\$4,946.67), for a total award of Six Thousand Six Hundred Thirteen Dollars and Thirty-Four Cents (\$6,613.34).

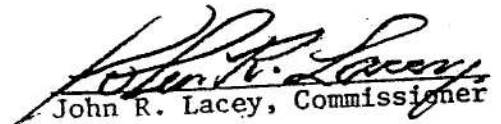
Claimant HATIXHE F. COMO is entitled to an award in the principal amount of One Thousand Six Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$1,666.67), plus interest from October 1, 1945, to April 18, 1995, in the amount of Four Thousand Nine Hundred Forty-Six Dollars and Sixty-Seven

Cents (\$4,946.67), for a total award of Six Thousand Six Hundred Thirteen Dollars and Thirty-Four Cents (\$6,613.34).

Claimant VJOLLCA F. KURTI is entitled to an award in the principal amount of One Thousand Six Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$1,666.67), plus interest from October 1, 1945, to April 18, 1995, in the amount of Four Thousand Nine Hundred Forty-Six Dollars and Sixty-Seven Cents (\$4,946.67), for a total award of Six Thousand Six Hundred Thirteen Dollars and Thirty-Four Cents (\$6,613.34).

Claimant SHAHIN FEMERA is entitled to an award in the principal amount of One Thousand Six Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$1,666.67), plus interest from October 1, 1945, to April 18, 1995, in the amount of Four Thousand Nine Hundred Forty-Six Dollars and Sixty-Seven Cents (\$4,946.67), for a total award of Six Thousand Six Hundred Thirteen Dollars and Thirty-Four Cents (\$6,613.34).

Dated at Washington, DC and
entered as the Final
Decision of the Commission.


John R. Lacey, Commissioner

DEC 15 1998


Richard T. White, Commissioner

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OF THE UNITED STATES
UNITED STATES DEPARTMENT OF JUSTICE
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SHAHIN FEMERA

Against the Government of Albania

Claim No. ALB-042

Decision No. ALB-290

PROPOSED DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real property located in Delvine and Gjirokaster.

Under section 4(a) of Title I of the International Claims Settlement Act of 1949 ("ICSA"), as amended, the Commission has jurisdiction to

receive, examine, adjudicate, and render final decisions with respect to claims of . . . nationals of the United States included within the terms of . . . any claims agreement on and after March 10, 1954, concluded between the Government of the United States and a foreign government (exclusive of governments against which the United States declared the existence of a state of war during World War II) . . . providing for the settlement and discharge of claims of . . . nationals of the United States against a foreign government, arising out of the nationalization or other taking of property, by the agreement of the Government of the United States to accept from that government a sum in en bloc settlement thereof.

22 U.S.C. 1623(a) (1994).

The Governments of the United States and Albania concluded an agreement for en bloc settlement of claims of United States nationals against Albania on March 10, 1995. *Agreement Between the Government of the United States and the Government of the Republic of Albania on the Settlement of Certain Outstanding Claims*, March 10, 1995 (entered into force April 18, 1995) ("Settlement Agreement"). Claims covered by the Settlement Agreement are

the claims of United States nationals (including natural and juridical persons) against Albania arising from any nationalization, expropriation, intervention, or other taking of, or measures affecting, property of nationals of the United States prior to the date of this agreement[.]

Settlement Agreement, Article 1(a).

Claimant XHANI FEMERA seeks compensation for the alleged expropriation by the Government of Albania in 1945 of agricultural land, including 1,657.5 acres of farm land located in Delvine and 134 acres located in Gjirokaster.¹ At that time, according to the claimant, the properties were owned by his father, Haki Femera, who acquired United States nationality by naturalization in 1924. Claimant's father is said to have inherited the properties from his father, Shahin Mehmet Kamberi (Femera), who died in New Jersey in 1943.

¹The claimant also sought compensation for a commercial building in Vlore, but now advises that the building was returned to the family in 1993.

After the claim was filed, claimant's mother and six siblings contacted the Commission, stating that they wish to be included as co-claimants. Accordingly, the Commission accepts MAKBULE Q. FEMERA, FLORENCE F. LESKO, SHKEMBOR FEMERA , KEJDIJ F. LICI, HATIXHE F. COMO, VJOLLCA F. KURTI and SHAHIN FEMERA as co-claimants in this case.

In support of their claim, the claimants have submitted numerous documents evidencing their United States nationality, death certificates, copies of wills, certificates of inheritance, assignments and copies of deeds.

Evidence in the record establishes that Shahin Mehmet Kamberi (Femera) died in New Jersey on September 7, 1943, his wife Hatixhe having predeceased him in 1937. Under the terms of his will, each of his three children, Haki Femera, Shano Shaplo and Ismihan Helen Shaplo inherited a one-third interest in his estate. Evidence in the record further establishes that Haki Femera acquired United States nationality in 1924, and that his seven children who are claimants were born in Albania between 1939 and 1959, after his naturalization as a U.S. citizen. There is, however, no evidence that MAKBULE Q. FEMERA, the wife of Haki Femera and the mother of the other claimants, ever acquired United States nationality.

In order to be eligible for compensation, a claimant must establish not only that the property at issue was owned by a United States national at the time of confiscation, but also that the claim has been continuously held by one or more United States nationals from the date of the confiscation until April 18, 1995, the effective date of the Settlement Agreement. This requirement is well established in the law of international claims, and has long been applied by both this Commission and its predecessor, the International Claims Commission. *See, e.g., Claim of PETER D. JANUS against Yugoslavia*, Claim No. Y-1721, Decision No. Y-0377 (1954); *Claim of MIA FOSTER against Czechoslovakia*, Claim No. CZ-2696, Decision No. CZ-0001 (1960).

Since there is no evidence that MAKBULE Q. FEMERA ever became a U.S. national, her claim for her inherited share of her husband's claim must be and is hereby denied.

Based on the evidence in the record, consisting of numerous deeds of mortgage, the Commission finds that as of September 7, 1943, the date of death of Shahin Mehmet Kamberi (Femera), he was the owner of approximately 165 acres of land located in the vicinity of Delvine. Additional deeds of mortgage indicate that Shahin Mehmet Kamberi (Femera) also owned approximately 11 acres of land in three different locations in the vicinity of Gjirokaster. Upon his

death in September 1943, the properties devolved under the terms of his will to his three children, Haki Femera, Ismihan Helen Shaplo and Shano Shaplo.

Claimants have asserted that the property in issue was confiscated by the Albanian Communist regime on October 1, 1945. This is consistent with the Commission's understanding that on or about August 29, 1945, the Albanian Communist regime promulgated the "Agrarian Reform Law," which provided that land not directly worked by the owner was subject to seizure and redistribution by the government, without payment of compensation to the legal owner. Land Reform Law No. 108, GZ 1945, No. 39. That law was affirmed by the 1946 Albanian constitution which stated that "land belongs to the tiller." Alb. Const., 1946, Ch. I, Art. 12.

Based on the entire record, the Commission determines that the implementation of the Agrarian Reform Law, coupled with the restrictions placed upon non-farming owners, had the effect of depriving Haki Femera of his property, and thus constituted an uncompensated expropriation by the Government of Albania. The Commission further finds that -- upon the death of Haki Femera in 1972 -- his estate (including the claim for the property here at issue) devolved in equal shares to his wife and seven children. Accordingly, the sibling claimants are entitled to awards of compensation for their inherited shares

of their father's claim for a one-third interest in the properties in Delvine and Gjirokaster which he had inherited from his father in 1943. The awards shall date from October 1, 1945, the date of confiscation asserted by the claimants.

In a letter dated August 12, 1996, the son of claimant XHANI FEMERA advised the Commission that the "134 acres" was bought for 25,000 "French Gold" and that the "1,757 acres" was bought for 16,500 "French Gold." On prior registration forms filed with the Commission, claimant XHANI FEMERA valued the Delvine properties at 16,500 "Franga Ari" and the Gjirokaster properties at 1,995 "Franga Ari".² However, the Notes of Transcription for the Delvine properties indicate a price range of \$22 to \$51 per acre. Similarly, the Notes of Transcription for the Gjirokaster properties give a sale price range of \$55 per acre to \$457 per acre.

Based on its study of the values of various kinds of real property in Albania before and during World War II and thereafter, together with the evidence before it in this case, the Commission finds that the 165 acres of agricultural land located in Delvine had a value at the time of expropriation of approximately \$100 per acre, or \$16,500, and that the 11 acres of land in the

²According to the currency charts utilized by the Commission, between 1933 and 1945 one United States dollar was equivalent to 3.05 franga ari.

Gjirokaster area had a value of approximately \$300 per acre, resulting in a total value of \$20,000.00.

The Commission notes that the two daughters of Shahin Femera, Ismihan Helen Shaplo and Shano Shaplo, have sought to assign their claims for their one-third interests in their father's properties to the present claimants. However, it appears that only Ismihan Helen Shaplo was a United States national at the time the property was confiscated.³ Accordingly, the Commission finds that the sibling claimants are also entitled to compensation based on Ismihan Helen Shaplo's claim for her one-third interest in the properties, but not for that of Shano Shaplo.

Accordingly, each sibling claimant is entitled to an award in the principal amount of \$1,666.67 as compensation for his or her one-eighth interest in their father's and aunt's interests in the claim for the loss of the properties in question, dating from October 1, 1945.

In accordance with applicable principles of international law and its decisions in previous claims programs, the Commission further concludes that

³Ismihan Shaplo acquired U.S. nationality in 1943. While it is not clear whether Shano Shaplo ever acquired U.S. citizenship, it is clear that she applied in 1948. Thus, because she was not a U.S. citizen when the property was confiscated in 1945, her part of the claim has not been continuously held by a U.S. national and is not compensable here.

the sibling claimants are entitled to interest as part of their awards, amounting to 6 percent simple interest per annum from the date of loss to the effective date of the Settlement Agreement. Accordingly, each sibling claimant is also entitled to an interest award of 296.8 percent of his or her principal award, or \$4,946.67.

Under the terms of the U.S.-Albania Settlement Agreement, the United States Government has agreed to advise the Albanian authorities of the issuance of the Commission's awards so as to prevent any double recovery. A copy of this decision will therefore be forwarded to the Albanian government in due course.

The Commission therefore makes the following awards, which will be certified to the Secretary of the Treasury for payment in accordance with sections 5, 7, and 8 of Title I of the ICOSA (22 U.S.C. §§1624, 1626, and 1627).

A W A R D S

Claimant XHANI FEMERA is entitled to an award in the principal amount of One Thousand Six Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$1,666.67), plus interest from October 1, 1945, to April 18, 1995, in the amount of Four Thousand Nine Hundred Forty-Six Dollars and Sixty-Seven Cents (\$4,946.67), for a total award of Six Thousand Six Hundred Thirteen Dollars and Thirty-Four Cents (\$6,613.34).

Claimant FLORENCE F. LESKO is entitled to an award in the principal amount of One Thousand Six Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$1,666.67), plus interest from October 1, 1945, to April 18, 1995, in the amount of Four Thousand Nine Hundred Forty-Six Dollars and Sixty-Seven Cents (\$4,946.67), for a total award of Six Thousand Six Hundred Thirteen Dollars and Thirty-Four Cents (\$6,613.34).

Claimant SHKEMBOR FEMERA is entitled to an award in the principal amount of One Thousand Six Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$1,666.67), plus interest from October 1, 1945, to April 18, 1995, in the amount of Four Thousand Nine Hundred Forty-Six Dollars and Sixty-Seven Cents (\$4,946.67), for a total award of Six Thousand Six Hundred Thirteen Dollars and Thirty-Four Cents (\$6,613.34).

Claimant KEJDIJ F. LICI is entitled to an award in the principal amount of One Thousand Six Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$1,666.67), plus interest from October 1, 1945, to April 18, 1995, in the amount of Four Thousand Nine Hundred Forty-Six Dollars and Sixty-Seven Cents (\$4,946.67), for a total award of Six Thousand Six Hundred Thirteen Dollars and Thirty-Four Cents (\$6,613.34).

Claimant HATIXHE F. COMO is entitled to an award in the principal amount of One Thousand Six Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$1,666.67), plus interest from October 1, 1945, to April 18, 1995, in the amount of Four Thousand Nine Hundred Forty-Six Dollars and Sixty-Seven Cents (\$4,946.67), for a total award of Six Thousand Six Hundred Thirteen Dollars and Thirty-Four Cents (\$6,613.34).

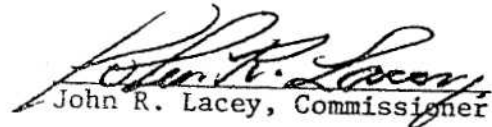
Claimant VJOLLCA F. KURTI is entitled to an award in the principal amount of One Thousand Six Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$1,666.67), plus interest from October 1, 1945, to April 18, 1995, in the amount of Four Thousand Nine Hundred Forty-Six Dollars and Sixty-Seven Cents (\$4,946.67), for a total award of Six Thousand Six Hundred Thirteen Dollars and Thirty-Four Cents (\$6,613.34).

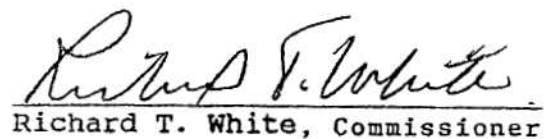
Claimant SHAHIN FEMERA is entitled to an award in the principal amount of One Thousand Six Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$1,666.67), plus interest from October 1, 1945, to April 18, 1995, in the amount of Four Thousand Nine Hundred Forty-Six Dollars and Sixty-Seven Cents (\$4,946.67), for a total award of Six Thousand Six Hundred Thirteen Dollars and Thirty-Four Cents (\$6,613.34).

Dated at Washington, DC and entered as the Proposed Decision of the Commission.


Delissa A. Ridgway, Chair

FEB 24 1997


John R. Lacey, Commissioner


Richard T. White, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, any objections must be filed within 15 days after service or receipt of notice of this Proposed Decision. Absent objection, this decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. FCSC Regulations, 45 C.F.R. 531.5 (e) and (g) (1995).